



DEPARTMENT OF THE AIR FORCE

ARLINGTON, VA 22203-1613

Office of the Deputy General Counsel

29 SEP 2004

MEMORANDUM IN SUPPORT OF THE DEBARMENTS OF:

CTX INTERNATIONAL, INC.
CHUNTEX ELECTRONIC COMPANY, LTD.

Effective August 15, 1997, the Department of the Air Force proposed the debarments of CTX International, Inc. (CTX), Chuntex Electronic Company, Ltd., (Chuntex), and certain affiliates and employees. Effective this date, the Air Force has debarred CTX and Chuntex from Government contracting and from directly or indirectly receiving the benefits of federal assistance programs. The actions are taken pursuant to Federal Acquisition Regulation (FAR) Subpart 9.4.

INFORMATION IN THE RECORD

Information in the record indicates that at all times relevant hereto:

1. CTX was a California corporation engaged in the business of selling computer monitors to commercial customers and prime government contractors.
2. Chuntex was a Taiwan corporation engaged in the business of manufacturing computer monitors that were sold to CTX for resale to commercial customers and prime U.S. Government contractors. Chuntex owned a controlling interest in CTX.
3. Y.C. Liu was president of CTX; and Frank Liu was president of Chuntex. Both were debarred by the Air Force in connection with the facts set forth in this "Information in the Record."
4. On May 28, 1997, CTX was convicted in the United States District Court, Central District of California, of four violations of 18 U.S.C. § 1001. Specifically, CTX pled guilty to having made false representations to the U.S. Government prime contractors as to the country of origin of computer monitors. Specifically, CTX represented that the four shipments of monitors were manufactured in Hong Kong, when in truth, as was well known to CTX, the monitors had been manufactured in Taiwan.
5. Y.C. Liu, while president of CTX, directed, was aware of and acquiesced in the false labeling of monitors in CTX's California facility, as having been manufactured in Hong Kong when, as he well knew, they had been manufactured in Taiwan.
6. Frank Liu, while president of Chuntex, directed, was aware of and acquiesced in the false labeling of monitors in Chuntex's Taiwan facility to be sold to the U.S. Government, as having been manufactured in Hong Kong, when he well knew, they had been manufactured in Taiwan.

7. James Stewart (Stewart) and Sam Li (Li) were employed by CTX as salesmen responsible for the accounts of the U.S. Government and U.S. Government prime contractors. Rex Hsu (Hsu) was employed by CTX as a warehouse manager at CTX's California facility. Ben Chu (Chu) was Chuntex's Director of Marketing and Sales for the United States and subsequently, an officer of CTX. Steven Chen (Chen) and H.P. Shen (Shen) were at various times employed by Chuntex as Vice President, Marketing and Sales. Messrs. Stewart, Li, Hsu, Chu, Chen, and Shen directed, were aware of, and acquiesced in the false labeling of monitors in CTX's California facility and in Chuntex's Taiwan facility, as having been manufactured in Hong Kong when, as they well knew, they had been manufactured in Taiwan. All were debarred by the Air Force in connection with the facts set forth in this "Information in the Record."

ANALYSIS

Respondents, through counsel, provided information and argument in response to the notice of proposed debarment, including two letters dated September 2, 1998 (collectively, the "submissions"). The submissions, and all other information in the administrative record have been carefully reviewed and considered.

Respondents do not contest the facts as set forth in the proposed debarment notice. Accordingly, there is no genuine dispute as to any material fact. Nor do Respondents contend that they are presently responsible contractors that should not be debarred. They claim only that they have taken a number of actions that will at some point in the future be sufficiently implemented such as to satisfy the Department of Defense's high standards, and that they would report to the Air Force on their progress. No such report has been received.

Respondents also represented that they would refrain from government contracting until at least May 31, 1999, the date by which they felt they would be able to complete the implementation of the remedial measures. As no progress report has been submitted to the Air Force, the record supports the conclusion that Respondents' implementation plan has not been completed.

While the informal representation to refrain from government contracting is commendable, it is not enforceable, and does not sufficiently protect the Government from the risks of contracting with non-responsible contractors. Accordingly, for the reasons stated herein, and in the Air Force's letter to Respondents dated October 8, 1998, I find that the debarments of CTX and Chuntex are necessary to protect the Government's business interests. In the event Respondents believe they have completed the implementation of the remedial measures outlined in the submissions, and are presently responsible contractors, the Air Force will consider reducing the period or extent of their debarments, if appropriate, pursuant to FAR 9.406-4 (c).

FINDINGS

1. The conviction, and seriously improper conduct of CTX and its employees provides independent bases for its debarment, pursuant to FAR 9.406-2(a)(1), (3), (5), and (c).

2. Pursuant to FAR 9.406-5(a), the fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The seriously improper conduct of Y.C. Liu, Stewart, Li, and Hsu may be imputed to CTX because their seriously improper conduct occurred in connection with the performance of their duties for or on behalf of CTX, or with the knowledge, approval, and acquiescence of CTX. The seriously improper conduct of Frank Liu, Chen, Shen and Chu may be imputed to Chuntex because their seriously improper conduct occurred in connection with the performance of their duties for and on behalf of Chuntex, or with the knowledge, approval, and acquiescence of Chuntex. The imputation of CTX employees' seriously improper conduct provides a separate basis for the debarment of CTX pursuant to FAR 9.406-5 (a). The imputation of Chuntex employees' seriously improper conduct provides a separate basis for the debarment of Chuntex pursuant to FAR 9.406-5 (a).

3. Pursuant to FAR 9.406-1 (b), debarment may be extended to the affiliates of a contractor. Chuntex and CTX are affiliates as defined in FAR 9.403 because, directly or indirectly, Chuntex controls can control CTX. The affiliation provides a separate and independent cause for the debarments of Chuntex and CTX.

4. The egregious nature of the misconduct, including the fact that the intentional mislabeling of numerous monitors was personally directed by the presidents of CTX and Chuntex, requires that they be debarred for a period in excess of that generally imposed in order to protect the Government's business interests.

DECISION

Pursuant to the authority granted by FAR Subpart 9.4, the Defense FAR Subpart 209.4 and 32 C.F.R. Section 25, and based upon the evidence contained in the administrative record and the findings herein, CTX and Chuntex are hereby debarred for 10 years, from August 15, 1997, the date they were proposed for debarment. Their debarment shall terminate on August 14, 2007.



STEVEN A. SHAW
Deputy General Counsel
(Contractor Responsibility)